

REMARKS/ARGUMENTS

Claims 21-36 are pending in the application. In the second office action, mailed September 29, 2005 (Second Office Action), the Examiner rejected claims 21-36. Claims 21-27, 30, and 32-35 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,713,077 issued to Hembrecht (Hembrecht). Claim 29 was rejected under 35 U.S.C. 103(a) as being unpatentable over Hembrecht. Claims 28, 31 and 36 were rejected as being unpatentable over Hembrecht in view of U.S. Patent No. 6,370,692 issued to Duyn (Duyn).

In a telephone conversation between the Applicant's attorney and the Examiner on October 12, 2005, the Examiner indicated that the independent claims 21, 27 and 32 would be allowable if they were amended to contain a more explicit definition of a head-and-face cover. The Applicant's attorney has attempted to so amend the claims.

Remarks on Claim Amendments

Claim 21 – Claim 21 has been amended to contain a more explicit definition of a head-and-face cover as being a cover that substantially covers the top of the head, the back of the head, the sides of the head and a substantial portion of the face of the person wearing the garment. This limitation is expressly included in the specification at paragraph [0056]. Thus, no new matter has been added by this amendment.

Claim 26 - On page 2 of the Second Office Action, the Examiner objected to claim 26 because it was stated in claim 26 that the pocket was attached to the garment body portion. Claim 26 has been amended herein to clarify that the pocket is attached to the hood.

Application No. 10/763,830
Preliminary Amendment dated October 29, 2005
Reply to Final Office Action of Sept. 29, 2005

Claim 27 - On page 2 of the Second Office Action, the examiner also noted that the term “the storage structure” did not have a proper antecedent basis in claim 27. Applicant agrees with this notation and has amended claim 27 herein to refer to “the pocket” rather than “the storage structure.” Applicant has also amended claim 27 to include a more explicit definition of a head-and-face cover as being a cover that substantially covers the top of the head, the back of the head, the sides of the head and a substantial portion of the face of the person wearing the garment.

Claim 28 – The applicant has amended claim 28 to change the term “assembly” to “garment” because the term “assembly” has no antecedent basis in either claim 28 or claim 27 on which claim 28 depends.

Claim 29 - On page 2 of the Second Office Action, the examiner objected to the specification because claim 29 referred to an “elastic material.” Claim 29 has been amended herein to refer to an expandable material, which has proper antecedent basis in paragraph [0048] of the application. The applicant has also amended claim 28 to change the term “assembly” to “garment” because the term “assembly” has no antecedent basis in either claim 28 or claim 27 on which claim 28 depends.

Claim 32 - Claim 32 has been amended to contain a more explicit definition of a ski mask as being a mask that substantially covers the top of the head, the back of the head, the sides of the head and a substantial portion of the face of the person wearing the garment.

Application No. 10/763,830
Preliminary Amendment dated October 29, 2005
Reply to Final Office Action of Sept. 29, 2005

Claim Rejections – 35 U.S.C. 103(a)

In the Second Office Action, the Examiner rejected claim 29 under 35 U.S.C. 103(a) as being unpatentable over Hembrecht. The Examiner also rejected claims 28, 31, and 26 under 35 U.S.C. 103(a) as being unpatentable over Hembrecht in view of Duyn.

Claims 26, 28, 29, and 31 are dependent on claims that the Examiner has indicated would be allowable if amended to contain a more explicit definition of a head-and-face cover. These independent claims have been so amended and should now be allowable. Thus, claims 26, 28, 29, and 31 should also now be allowable.

Remarks on Published Application

The Applicant's attorney has also noted that the Published Application, published July 28, 2005, has several discrepancies when compared to the original application. In comparing the Published Application with the originally filed application, the following observations are made:

- paragraphs [0046]-[0048] in the Published Application have been repeated in paragraphs [0050]-[0052];
- paragraph [0049] in the Published Application is an incomplete paragraph and has been repeated in complete form as paragraph [0053]; and
- paragraphs [0052]-[0056] in the original application have been omitted from the Published Application.

It is also noted that on page 8, paragraph [0038], the specification has been previously amended to change "hasp" to "clasp."

Applicant has included with this mailing a copy of what applicant's attorney believes to be the specification as originally filed. If this copy differs from the

Application No. 10/763,830
Preliminary Amendment dated October 29, 2005
Reply to Final Office Action of Sept. 29, 2005

specification that was actually filed, Applicant's attorney regrets the error and asks the Examiner to advise the Applicant's attorney on the proper ways to correct the error.

In noting these errors, it is not Applicant's intent to correct the Published Application. Applicant only wishes to ensure that these discrepancies are not present in the issued patent.

Conclusion

For all the reasons listed above, the Applicant believes that the application is in condition for allowance and asks the Examiner to allow all of the claims 21-36.

If the Examiner has any questions concerning the application, the Examiner is invited to contact the Applicant's attorney at the phone number or e-mail address listed below.

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